

1 Are you moving on to another subject? Are you now asking --

2 MR. JOYCE: No, Your Honor.

3 JUDGE CHACHKIN: -- questions about after the
4 application? Otherwise -- all messed up.

5 MR. JOYCE: Your Honor, there, there were a series
6 of traffic studies. They were supplemented each month or
7 so --

8 JUDGE CHACHKIN: Fine.

9 MR. JOYCE: -- by RAM Technologies --

10 JUDGE CHACHKIN: That may be.

11 MR. JOYCE: -- as Mr. Hardman can testify.

12 JUDGE CHACHKIN: That may be. But do you have any
13 traffic studies which were available to him before they filed
14 the application?

15 MR. JOYCE: I personally physically do not have
16 them. They were submitted to NABER. We have testimony from
17 Mr. Raymond that he may or may not have seen them.

18 JUDGE CHACHKIN: Well, I don't understand why we're
19 asking these questions about traffic studies. I thought, I
20 thought what you were dealing with were the reasons for filing
21 the application. I don't remember any questions asked could
22 you have amended your application after you saw the traffic
23 study.

24 BY MR. JOYCE:

25 Q Mr. Raymond, February 1990 your application is still

1 pending at NABER, correct?

2 A Yes, sir.

3 Q All right, and you would have seen this traffic
4 study, correct?

5 A Yes, sir. For clarification for me or maybe you
6 just said something wrong, you asked me if I would have seen a
7 traffic study prior to our application. There was no way.
8 Why would -- I believe my answer was, why would the
9 competition supply me with a traffic study prior to us filing
10 for a frequency?

11 Q Well, you did testify that you submitted a traffic
12 study to NABER didn't you, Mr. Raymond?

13 A With the application, yes, sir.

14 Q All right, and that was in response to RAM's traffic
15 study you testified. Isn't that correct?

16 A No, sir. I said that Mrs. Watson whom I was working
17 with on our application had requested a traffic study which I
18 verbally gave her. Then I believe once somewhere on down the
19 line RAM started flooding in with these type of things she
20 asked me to perform some traffic studies which I went out and
21 people perform them, sir.

22 Q Well, I hate to have to go back over this,
23 Mr. Raymond, but I don't think that squares exactly with your
24 direct testimony.

25 MR. HARDMAN: I think it does.

1 BY MR. JOYCE:

2 Q Paragraph -- at page 6 of your direct testimony,
3 just so I understand, and believe me, I'm not trying to
4 confuse you.

5 A That's okay, sir.

6 Q Says here, "NABER's request -- I had additional
7 monitoring of the channel performed." Now, I take that to
8 mean that either you or somebody else had previously monitored
9 the channel and determined in RAM's opinion that it was busy.
10 Isn't that correct?

11 A Maybe I mis-answered or you misunderstood. I said
12 when we filed the application I was working with a lady that I
13 think since her name -- she's gotten married, but it was
14 Gloria Watson I believe at the time. She asked me over the
15 phone was -- if my memory serves me. Then when RAM started
16 flooding NABER with these traffic studies of their own, she
17 wanted I assume to verify whether this was correct or not.
18 She asked me to perform additional and put them in writing
19 which we went out and got people that didn't work or us and
20 some that did to monitor the frequency and we sent those
21 traffic studies in which you have.

22 Q Thank you, Mr. Raymond. So, though I was asking you
23 questions about a February 1990 traffic study that's part of a
24 petition to deny --

25 A Yes, sir.

1 Q -- I take it from your conversations with
2 Ms. Watson that RAM had submitted earlier than that traffic
3 studies directly to NABER and not to the FCC? At least that
4 was your understanding from what you just told me, correct?

5 A No, sir. I said once they started flooding them she
6 asked me. I have no idea when they started putting them in.
7 I can't say. This may have been their -- February may have
8 been their first one, their fifth one. I, I don't know.

9 JUDGE CHACHKIN: NABER did not supply you with
10 copies of RAM's traffic studies?

11 MR. RAYMOND: This one that he's referring to I
12 remember, sir.

13 JUDGE CHACHKIN: The February 1990 one?

14 MR. RAYMOND: Yes, sir.

15 JUDGE CHACHKIN: When did you receive that?

16 MR. RAYMOND: I guess after they filed it and, and
17 we had to answer their -- one of their many complaints.

18 BY MR. JOYCE:

19 Q My point is, Mr. Raymond, that you had knowledge
20 while your application is still pending in February of 1990 of
21 RAM's claim that they got a bunch of voice pagers on this
22 frequency and that the frequency is very busy, correct?

23 A The understanding of their claim. I'm not saying it
24 was factual, sir.

25 Q I'm not asking you to say that.

1 A Okay, thank you. Yes, I, I do understand they made
2 that claim.

3 Q All right. Now, you've stated in your direct
4 testimony some reasons why you applied for a license on this
5 particular 152.48 PCP frequency, correct?

6 A Yes, sir.

7 Q And if I may summarize them, and please correct me
8 if I'm summarizing incorrectly. Item 1 is because PCPs aren't
9 subject to rate regulation, correct?

10 A Yes, sir, that is correct.

11 Q Item 2 is because you could offer lower priced
12 service to a smaller service area?

13 A Yes, sir.

14 Q Reason number three is because you felt only a high-
15 power VHF 152 MHz channel was appropriate in your geographic
16 service areas, correct?

17 A Economically, yes, sir.

18 Q Item number four I characterize is because you had
19 spare parts lying around. You might disagree with that
20 characterization. But is that fair to say?

21 A Well, what do you mean by spare parts?

22 Q Well, you refer in your direct testimony to having
23 some old pagers and equipment lying around.

24 A Well, I don't like to use the word old or
25 nonworkable. We, we had plenty of inventory available that

1 could be recrystaled which would save us considerably amount
2 of money recrystaling rather than purchasing, yes, sir.

3 Q Okay, and reason number five I've listed here is
4 because of the networking possibilities of 152.48, correct?

5 A Nationwide paging, yes, sir.

6 Q Okay. I want to go through these. Any others
7 before I press on?

8 A I'll -- you're, you're in -- you go right ahead,
9 sir, do what you want.

10 Q No, your testimony, are -- were there any other
11 reasons you can think of for applying for 152.48?

12 A Yes. There was one other -- well, no, I'm, I'm
13 ahead, I'm sorry. You'll come up to it.

14 Q Please go ahead and tell me.

15 A Well, later in time the other frequency, 157 or
16 whatever, I'm sure you'll get to that, came available and RAM
17 requested to NABER that we take that, okay? Do you want that
18 now or you want to save that for later?

19 Q Let's save that for later.

20 A Okay.

21 Q All right. Thank you. Now, isn't it true,
22 Mr. Raymond, that prior to this hearing in your responses to
23 RAM's petition to deny your application and, and petition for
24 reconsideration, you did not mention all those reasons as
25 justifications for applying for 152.48?

1 A I'm, I'm sorry, I, I -- you have me confused.

2 Q All right.

3 MR. HARDMAN: Your Honor, I'm going to object to
4 this line of question. The documents of record, they speak
5 for themselves of what issues were raised in the petition.
6 And I, I still don't understand how it's relevant to the
7 issues in this case.

8 MR. JOYCE: Well, I think it's perfectly relevant.

9 JUDGE CHACHKIN: Well, I'll sustain the objection
10 unless you could show me that questions were raised which
11 would have -- in the ordinary course of things required --
12 these reasons. I mean, I assume the FCC was not asking him
13 for competitive reasons why he was filing. The FCC was
14 concerned about interference -- improper interference. Now,
15 if you could show me in one of these petitions where the FCC
16 asked him tell us why you filed, then perhaps you have a basis
17 for asking these questions. Otherwise, I don't see any basis.

18 JUDGE CHACHKIN: Well, RAM certainly has. These are
19 RAM's petitions, not the FCC's, Your Honor.

20 MR. HARDMAN: Well, Your Honor, that goes to a
21 question of, of RAM's advocacy before the Commission and
22 whether, you know, RAM agreed with the way Capitol argued in,
23 in, in opposition to its petition. And certainly, if anything
24 that's a, that's a legal matter, legal strategy matter, that
25 really is not relevant to this case.

1 MR. JOYCE: I think it is relevant to determine if
2 the justifications for applying for a PCP application are ex
3 post facto or not.

4 MR. HARDMAN: Your Honor, what Capitol said in
5 response to RAM's petition, as you said earlier, it -- well,
6 the document -- RAM's document is Exhibit CAP 2. The issues
7 raised by that petition are of record and there is nothing in
8 there that requires Capitol to explain its motives in applying
9 which in every case an applicant's motives are presumed to be
10 honorable unless there's reason to believe otherwise. And,
11 and this, this petition is also dealt with in -- by the FCC in
12 Exhibit CAP 6. The FCC rejected all of Capitol's claims about
13 -- I'm sorry, all of RAM's claims about Capitol
14 misrepresenting shared systems. This is all matter -- it's
15 water under the bridge that's not germane to the hearing.

16 MR. JOYCE: It's most certainly relevant, Your
17 Honor. Your Honor can draw your own inferences after the
18 witness answers the question.

19 JUDGE CHACHKIN: Well, I'm not going to permit the
20 question unless you could show me -- point to a specific
21 document where this question was raised and there was a
22 response by Capitol which dealt with this subject and which
23 didn't put down these reasons, it put down other reasons or no
24 reasons, or what-have-you. But a general question of this
25 nature I'm not going to permit.

1 MR. JOYCE: The question was asked at page 2 of
2 Capitol Exhibit 2.

3 JUDGE CHACHKIN: Page 2 of Capitol Exhibit 2?

4 MR. JOYCE: " -- presented the Commission with
5 substantial allegations of fact to show that Capitol had
6 engaged in the following and it's 1) abuse of FCC processes by
7 filing for license authorizations with the intent to cause
8 harmful co-channel interference -- " --

9 JUDGE CHACHKIN: I could read as well as you. Where
10 does it say anything about the competitive reasons, that there
11 were improper competitive reasons --

12 MR. JOYCE: In "3) Failure to establish need for FCC
13 radio authorizations."

14 JUDGE CHACHKIN: Yeah?

15 MR. HARDMAN: And, and could counsel now show us any
16 legal requirement as part of an application for a PCP that an
17 applicant show there is need? This is not an RCC frequency.

18 MR. JOYCE: There is most certainly a requirement
19 and it's, it's stated forward in that petition.

20 JUDGE CHACHKIN: I thought this was a shared
21 frequency anyone could apply for. Am I wrong?

22 MR. HARDMAN: Exactly.

23 MR. JOYCE: There is still --

24 JUDGE CHACHKIN: Exclusive frequency?

25 MR. JOYCE: Under the Communications Act, everyone

1 must show need, Your Honor, before the FCC --

2 JUDGE CHACHKIN: As far as I know there's no issue
3 here of need in this proceeding. Is there any requirement?
4 The Bureau counsel is here. Is there any requirement to make
5 a showing of need to apply for a shared frequency?

6 MS. FOELAK: Well, technically you're not supposed
7 to apply for anything you don't have need for. I could
8 cite --

9 JUDGE CHACHKIN: That's not the need that I
10 understood here. I thought we were talking about the public
11 interest.

12 MS. FOELAK: I don't have the rule at my fingertips,
13 but --

14 MR. HARDMAN: There -- Your Honor, there is no
15 evidentiary requirement as part of the application papers to
16 demonstrate need for a frequency. I'm very familiar with the
17 concept and believe me, there is no such thing in the private
18 services.

19 MS. FOELAK: He is correct in saying that the
20 application does not require a statement, or an explanation.

21 JUDGE CHACHKIN: And as far as I know there's no
22 requirement to submit a channel-use study is there for a
23 shared frequency?

24 MS. FOELAK: No, there isn't.

25 JUDGE CHACHKIN: So, what, what, what is this need

1 we're talking about here?

2 MR. JOYCE: It's, it's a requirement under
3 Section 152 of the Act.

4 JUDGE CHACHKIN: What is that? Requirement to do
5 what?

6 MR. JOYCE: To establish need prior to applying for
7 any radio authorization private or otherwise.

8 JUDGE CHACHKIN: Is that what it says in 151 of the
9 Act?

10 MR. JOYCE: I'm referring to the case of AF&L
11 Telephone which is cited at page 11 of Exhibit 2.

12 JUDGE CHACHKIN: Apparently the Bureau rejected your
13 arguments. That's why we're here. The Bureau granted the
14 license. They didn't agree with you. You made your
15 arguments, the Bureau didn't agree with you.

16 MR. JOYCE: I don't disagree with that, Your Honor.

17 JUDGE CHACHKIN: Fine. So, your argument was
18 rejected. The Bureau did not put -- make any requirement of
19 need before they granted a license.

20 MR. JOYCE: The Bureau obviously made a mistake,
21 Your Honor, or we wouldn't be here.

22 JUDGE CHACHKIN: Well --

23 MR. JOYCE: I think it's fair for you to draw your
24 own inferences about whether or not these justifications that
25 are now being raised after their licenses are designated

1 | for resignation why didn't those justifications -- why weren't
2 | they raised earlier in these proceedings?

3 | MR. HARDMAN: And, Your Honor, I would, I would
4 | again invite counsel to demonstrate any requirement at any
5 | time under the FCC rules for Part 90 or any other source where
6 | Capitol was supposed to do that. They just, they just didn't
7 | exist. Capitol did what it was required to do. It followed
8 | the procedures, it followed the evidentiary submissions
9 | required for its applications and to have to respond to, to
10 | RAM's view of the world as to what, what kind of hoops Capitol
11 | should go through, you know, there's absolutely no
12 | justification for imposing that kind of a requirement on --

13 | MR. JOYCE: I'll press on, Your Honor.

14 | JUDGE CHACHKIN: All right.

15 | BY MR. JOYCE:

16 | Q Mr. Raymond, one of the reasons you claimed that you
17 | applied for this PCP license was to avoid West Virginia rate
18 | regulations. Is that correct?

19 | A One of the rates, yes, sir. One of them. That's
20 | one of the man regulations in the state.

21 | Q I understand. But isn't it true that West Virginia
22 | considers paging services to be competitive?

23 | A I don't know what they consider them to be. They
24 | consider them to be a public utility that we must file forms
25 | and are completely, totally regulated by that not only on

1 price but many, many, many other things.

2 Q But because paging services are regulated as
3 competitive in West Virginia, you can change your prices on
4 30-day's notice. Isn't that true?

5 A That is not true, sir.

6 Q It is not true?

7 A No, sir.

8 Q Are you an attorney, Mr. Raymond?

9 MR. HARDMAN: Your Honor, I object.

10 JUDGE CHACHKIN: You asked him the question, he said
11 no. I don't understand it. You want to put an attorney in
12 from West Virginia, put him on. You're not an attorney
13 practicing in West Virginia, Mr. Joyce, as far as I know.

14 BY MR. JOYCE:

15 Q What is the basis if your understanding that you
16 cannot change your rates on 30-days' notice?

17 A My understanding comes from Danny Walker who's the
18 -- excuse me for not knowing his title, but that's the
19 gentleman that, that we have to report to from the Public
20 Service Commission and, and to change the tariff, especially
21 our tariff. It depends I'll assume on how maybe the tariffs
22 are written. Maybe some tariffs can get approved with 30
23 days' notice, but even if that be the case, the Public Service
24 Commission would have to meet on it. Ours is not set up that
25 way. Capitol's was not set up that way, sir. We would have

1 to file a complete new tariff which means that we must
2 advertise in every county that we provide paging, paging
3 facilities or even if our communication just goes in there,
4 whether we have, have a transmitter there or not. So that
5 must be advertised in the paper. Then every carrier I believe
6 in the state has the opportunity for 30 days to try to go
7 against this tariff or not go against this tariff. And then
8 upon the recommendation in this case by Mr. Walker, then it is
9 sent to I guess to Mr. Cunningham for approval.

10 MR. JOYCE: Your Honor, I've marked for purposes of
11 identification RAM Exhibit No. 4.

12 JUDGE CHACHKIN: What were the other RAM exhibits?

13 MR. JOYCE: I haven't submitted any others yet, Your
14 Honor.

15 JUDGE CHACHKIN: Well then I guess it's RAM
16 Exhibit 1.

17 MR. JOYCE: Well, I've already marked the exhibits.
18 It would be easier just --

19 JUDGE CHACHKIN: No, no, this -- just remark it.
20 This is 1. This is the --

21 MR. JOYCE: All right.

22 JUDGE CHACHKIN: -- this is the first exhibit.

23 MR. JOYCE: May I approach the witness, Your Honor?

24 JUDGE CHACHKIN: Yes.

25 (Whereupon, the document referred to

1 as RAM Technologies Exhibit No. 1 was
2 marked for identification.)

3 BY MR. JOYCE:

4 Q Mr. Raymond, I've showed you a copy of a case taken
5 from a -- before the West Virginia Public Service Commission.
6 The caption is Easterbrook Cellular Corporation.

7 A Okay.

8 Q Do you see under findings of fact refers to revised
9 tariff being filed on April 2nd, 1993 to provide a tariff rate
10 for cellular roamers to become effective May 2nd, 1993, that
11 would be 30 days later, correct?

12 A Yes, sir.

13 Q Okay, and under the conclusions of law in this case,
14 the Public Service Commission said, "It would be reasonable to
15 accept for filing and to approve the request for providing
16 tariff sheets to become effective May 2nd." Do you see that
17 as well?

18 A Yes, sir, I do.

19 Q And a cellular company is a radio common-carrier
20 company. Is it not?

21 A Yes, sir, they are. They are regulated.

22 Q So, at least in this case here's an example of one
23 company that did get its tariffs approved on 30-days' notice
24 with the West Virginia Public Service Commission, correct?

25 MR. HARDMAN: Object, Your Honor. This is cellular.

1 There's no foundation for its relevance in this case.

2 JUDGE CHACHKIN: Well, I don't understand where
3 you're going. Where are you going with this? Are you saying
4 that a, a regulated company is not different than a
5 nonregulated company? West Virginia doesn't regulate private-
6 radio carriers apparently. So, how -- what are you trying to
7 prove here? I don't understand that. That they can get a
8 tariff approved in 30 days? The fact of the matter people
9 could object -- didn't -- with a PCP apparently you can do
10 whatever you want, there's no regulation whatsoever.

11 MR. JOYCE: I'm not disputing that there are
12 differences, Your Honor.

13 JUDGE CHACHKIN: So what's the -- what are you
14 arguing? Then what's the point of this exercise then if
15 you're not disputing that?

16 MR. JOYCE: That is not that big a difference. If
17 you can --

18 JUDGE CHACHKIN: Well, are you seriously saying it's
19 not a big difference to be regulated or not to be regulated?

20 BY MR. JOYCE:

21 Q Mr. Raymond, when was the last time somebody filed a
22 protest when you attempted to lower your rates?

23 A To my knowledge, we -- well, no -- never.

24 Q Thank you.

25 JUDGE CHACHKIN: Do you want this exhibit identified

1 or what?

2 MR. JOYCE: You've ruled that it's irrelevant, Your
3 Honor.

4 JUDGE CHACHKIN: Well, you can have it identified
5 and go forward with the record. It's up to you. I mean --

6 MR. JOYCE: Well, I, I would like to move for its
7 admission as RAM Exhibit 1.

8 JUDGE CHACHKIN: All right. First of all, a two-
9 page document showing some kind of an order by the West
10 Virginia Public Service Commission is marked for
11 identification as RAM Exhibit 1. Any objection its receipt in
12 evidence?

13 MR. HARDMAN: Yes, Your Honor, I object on relevancy
14 grounds --

15 MS. FOELAK: Your Honor, the --

16 MR. HARDMAN: -- and no foundation.

17 MS. FOELAK: The Bureau objects also for the same
18 reason.

19 JUDGE CHACHKIN: Sustained. RAM Exhibit 1 is
20 rejected as irrelevant. We'll take a 10-minute recess at this
21 time.

22 (Whereupon, the document referred to
23 as RAM Technologies Exhibit No. 1 was
24 hereby rejected.)

25 (Whereupon, a brief recess was taken from 11:03 a.m.)

1 | until 11:13 a.m.)

2 | JUDGE CHACHKIN: Back on the record. Mr. Joyce?

3 | BY MR. JOYCE:

4 | Q Mr. Raymond, and I apologize for calling you
5 | Mr. Raymonds earlier. It's R-A-Y-M-O-N-D?

6 | A Yes, sir.

7 | Q All right. Mr. Raymond, you've testified that
8 | another reason why you wanted to apply for this particular PCP
9 | frequency is because you could provide a lower priced service
10 | in a smaller service area. Is that correct?

11 | A Yes, sir. Budget paging.

12 | Q But you were here earlier in the week when Ray
13 | Bobbitt testified that with your Commonwealth terminal you
14 | could very easily have set up smaller zones of service. Isn't
15 | that true?

16 | A No, sir.

17 | Q Why is that not true?

18 | A Well, Mr. Bobbitt may know RAM's equipment -- excuse
19 | me, Mr. Bobbitt may be aware of RAM's Technology equipment and
20 | terminals and transmitters, but unless he's physically gone
21 | into our transmitter sites I don't think he's quite aware what
22 | we have.

23 | Q Well, what's the difference between your
24 | Commonwealth terminal and RAM's?

25 | A I don't know RAM's, sir. I've never seen their

1 terminal.

2 Q They're all the same aren't they? They're all
3 called a Mark series terminal?

4 MR. HARDMAN: Your Honor, there's no foundation that
5 this witness should have any reason to know --

6 JUDGE CHACHKIN: I'll sustain the objection. If you
7 want to ask the question about his equipment, why he couldn't
8 do it, fine. But let's not compare it to RAM's. He's never
9 seen RAM's equipment.

10 BY MR. JOYCE:

11 Q What is it about your Commonwealth equipment and
12 your paging equipment that would have made it -- well, let me
13 back up. Is it your testimony then that it's simply
14 impossible for you to provide zone service on your existing
15 RCC system?

16 A Nothing is impossible, sir. It is possible. It can
17 be --

18 JUDGE CHACHKIN: No, he didn't ask -- with your
19 existing equipment.

20 MR. RAYMOND: It's impossible, it is impossible.

21 BY MR. JOYCE:

22 Q With your existing equipment?

23 A Yes, sir.

24 Q You would have had to have modified it in some way?

25 A Yes, sir.

1 Q And I, I take it that it would have been
2 prohibitively expensive.

3 A It would have been expensive, yes, sir.

4 Q In the magnitude of how much?

5 A Well, it, it's just not -- in modifying the
6 Commonwealth terminal to allow that function to be available,
7 you also must retrofit shells and so forth in the transmitters
8 and the possibility of even changing your links just this one
9 to do this zone and this one to do this zone. And Capitol
10 Paging has built a wonderful reputation of a large paging area
11 by simulcasting our system in Charleston. Paging is a lot
12 like selling real estate. One thing they want is range,
13 range, range, and in real estate they want location, location,
14 location. So, we're very concerned about having a long range,
15 but yet being able to provide a small range as well. And
16 zoning would have not -- it would have been costly.

17 Q Do you know whether or not -- let's move on.
18 Mr. Raymond, you testified that you needed a higher power
19 frequency?

20 A Yes.

21 Q That's why you chose the 152.48 in particular?

22 A That was the only high-power frequency at that time,
23 sir. Yes, sir.

24 Q But you testified that you needed a high-power
25 frequency, if I'm not mistaken, correct?

1 A Yes, sir.

2 Q Okay, and indeed, your license was issued for 350
3 watts output power, correct?

4 A That is correct, sir.

5 Q Okay, but according to the FCC's field engineers and
6 your own technician, Mr. McCallister, the equipment that you
7 had installed never operated at more than -- and I don't want
8 to get an objection from Mr. Hardman so clarify me if I'm
9 misstating this, but I believe they testified that it never
10 operated at more than 75 or 100 watts. Is that correct?

11 A The -- site on the field inspection was 100 watts
12 and the Kenova site was 76.

13 Q Okay. So, the answer is yes?

14 A Yes, sir.

15 Q And then by the summer of 1990 prior to your PCP
16 station going on the air, RAM had notified you about the
17 availability of another high-power VHF PCP frequency. Isn't
18 that correct?

19 A I'm not quite sure whether they notified us
20 personally or through the attorneys, but we received
21 notification from someone that there was another high-power
22 frequency, yes, sir.

23 Q Okay, and that was 157.740 frequency?

24 A Yes, sir, that is correct.

25 Q And RAM or somebody had indicated to you that there

1 were no other commercial paging companies operating on that
2 frequency?

3 A I don't remember what they said.

4 Q Would you take my word for it or -- that they
5 indicated to you that there were no other commercial paging
6 companies operating on that frequency?

7 A No, sir, I won't.

8 Q All right. Would you take a look at Capitol Exhibit
9 No. 7, and that's a petition for reconsideration?

10 A Yes, sir.

11 Q Page 10.

12 A All right, sir.

13 Q And that's the NABER, N-A-B-E-R, co-channel user
14 listing. Do you see that?

15 A Yes, sir.

16 Q And it's -- appears to be a computer printout.

17 A Yes, sir. That's correct.

18 Q It says at the top, "Frequency 157.74, Charleston,
19 West Virginia"?

20 A Yes, sir.

21 Q And if you look down there in the Charleston and
22 Huntington areas, do you see any commercial paging companies?

23 A I don't know -- you mean the one that's out to the
24 public? Is that what you're --

25 Q Correct.

1 A No, I don't.

2 Q Okay, and though apparently RAM Technologies had
3 sent this information to your attention to your attorney, you
4 didn't change your -- you didn't amend your application to
5 change on to that frequency did you?

6 A No, and I wouldn't today either, sir.

7 Q And you said in your direct testimony the reason you
8 wouldn't is because Union Carbide was on it. Is that correct?

9 A Yes, sir.

10 Q And you referred to Union Carbide's emergency
11 service?

12 A That's my understanding, they used it for emergency
13 and communication usage, yes, sir.

14 Q Union Carbide is a chemical company, I believe,
15 isn't it?

16 A Yes, sir. One of the largest in the world.

17 Q Okay, and they're not -- they don't run some kind of
18 ambulance service with, with which I'm unfamiliar or something
19 of that sort?

20 A Evidently you're unfamiliar then. Major plants in
21 our area, happened to be my father was, was employed by them,
22 run their own fire departments, ambulances and all within
23 their plants. Their people are specially trained for chemical
24 hazards. As a matter of fact, when there is a for example, a
25 truck accident of hazardous material on one of the

1 interstates, the Union Carbide or similar plants such as
2 DuPont and so on, their hazardous rescue squads are the ones
3 that are called in on those, sir.

4 Q Did you talk to Union Carbide about providing paging
5 service to them?

6 A We do provide paging service to Union Carbide, sir.

7 Q Okay. Why couldn't you have also provided to them
8 on 175.74? I don't understand.

9 A Well, I, I don't work for Union Carbide, sir, but
10 once again, it doesn't take a rocket scientist, why would they
11 want to pay us for something that they already have?

12 Q Well, they're, they're already a customer of yours.
13 I presume you would have done it for free or made it available
14 to them at a good price.

15 A Maybe you would, but we, we don't -- try not to do
16 things for free. And once again, my question is they have it
17 in as an operation. They have already invested their money.
18 Now, I'm not Union Carbide and making their decisions, but,
19 you know, they have it, it's in operation, they have their
20 pagers. Why would we want -- I don't even understand where
21 you're coming from. Why would we want to give them something
22 they already have?

23 Q Okay. So, you were concerned about interfering I
24 take it with Union Carbide's 157.74 operations?

25 A I don't, I don't want anything to do with that

1 frequency with one, one of our largest customers on that
2 frequency.

3 Q But you're aware of the fact that there are many
4 customers already on 152.48? Obviously, we've already
5 established that, correct?

6 A That's -- yes, sir.

7 Q All right, and you weren't concerned about
8 possibility of interference to those customers?

9 A If everyone does it right there wouldn't be
10 interference. I'll, I'll go along with where you're going to.
11 I mean, if everyone does things right there's --

12 Q Just so I understand. Union Carbide you were
13 concerned about but you weren't concerned about that
14 possibility on 152.48?

15 A It's not so much the interference, okay? I'm not
16 concerned about the interference on one. You can coexist, all
17 right? But how can I say this politely? I don't want to piss
18 off one of our biggest customers, okay? I don't want to get
19 in on an emergency frequency that is chemical related. I live
20 in that town. When we have had chlorine leaks and evacuations
21 in the last 10 years, when we have major disasters, that
22 recently there, there was a very large explosion with MIC gas
23 in the institute area. They notify their people by that
24 frequency. I don't want to do that, sir. Now, if other
25 companies select to get on a frequency that is shared by, for